

H.R. XX, the Safety And Fraud Enforcement for Seafood Act (MARKEY, D-MA)

In October 2011, separate investigations by the Boston Globe and the advocacy group Oceana found that seafood fraud – the mislabeling or misrepresentation of seafood – by restaurants and grocery stores in the Boston area was rampant. Using DNA testing, the Globe found that 48% of the seafood it sampled from restaurants and stores was not the species that was advertised; Oceana found fraud in 18% of its DNA tests, which were limited to seafood from supermarkets. Subsequent investigations across the country have made similar discoveries, culminating in [Oceana's nationwide report](#) released in February 2013. These results confirm the fears expressed by the Government Accountability Office (GAO) in a 2009 report that the Federal government was not adequately addressing seafood fraud, especially with respect to the 91% of seafood that the U.S. imports. This lack of oversight can harm the health and finances of consumers, and negatively affect the profitability of U.S. fishermen who play by the rules. Ensuring that seafood is traceable from sea to sale requires improved coordination of Federal agency activities, and new authorities to hold violators accountable.

Following the Boston Globe investigation, Rep. Ed Markey (D-MA) sent letters to the Food and Drug Administration (FDA), National Oceanic and Atmospheric Administration (NOAA) and the Federal Trade Commission (FTC) inquiring about their oversight of seafood fraud. The FDA has the lead responsibility for seafood safety and seafood labeling at the Federal level, but NOAA also has significant expertise and resources that could be utilized to address safety concerns. The FTC is responsible for regulating whether seafood is being truthfully advertised. The responses to these letters indicated that the agencies could more effectively work together to combat the issue of seafood fraud. Further, a 2011 GAO report found that Federal agencies are failing to coordinate appropriately to ensure that seafood imported into the U.S. meets basic requirements for safe human consumption. FDA and NOAA had pledged to improve coordination in a 2009 memorandum of understanding, but the GAO report made clear that the agencies have taken little action to implement the agreement.

GAO estimates that only 2% of seafood imported into the U.S. is inspected at all, and that only 0.001% is inspected for seafood fraud. This puts U.S. consumers at risk of being swindled and sickened. It also puts U.S. fishermen at risk of having the prices they receive for their catch undercut by inferior and falsely labeled foreign product. Government reports and outside investigations have made clear that we need to address this issue, leading to the development of the Safety And Fraud Enforcement for Seafood Act (SAFE Seafood Act).

SAFE Seafood Act

Section by Section Analysis:

Section 1

- Lists the short title as the “Safety And Fraud Enforcement for Seafood Act.”

Section 2

- Requires the Secretary of Commerce (Commerce) and the Secretary of Health and Human Services (HHS) to execute a memorandum of understanding to improve interagency cooperation on seafood safety between NOAA and FDA.
- Ensures inspections conducted to determine seafood safety also look for seafood fraud.
- Establishes procedures for increasing the number of local, state, and federal officials authorized to conduct seafood fraud and safety inspections.
- Requires development of a publicly available list of exporters by country who violate Federal seafood safety laws.

Section 3

- Requires HHS, in consultation with Commerce, to update and improve its list of standardized names for seafood and ensure that the list is accurate and publicly available.
- Requires data already required to be collected by U.S. fishermen on species, production method (gear type, farmed or wild), geographic catch area, and weight or number of fish to stay with the seafood through processing, distribution, and sale, and requires equivalent data to accompany imported seafood.
- Allows the Secretary of Commerce to refuse shipments of fraudulent seafood from foreign exporters, and requires the Secretary of Commerce and the Secretary of Health and Human Services to coordinate on sanctioning exporters.
- Ensures inspections conducted to determine seafood safety also look for seafood fraud.
- Requires development of a publicly available list of exporters by country that violate Federal seafood fraud laws.

Section 4

- Gives state attorneys general the authority to bring a civil action on behalf of a state's residents to enjoin fraud and/or receive damages.

Section 5

- Requires a biennial joint report from Commerce and HHS on progress made in ensuring seafood safety and preventing seafood fraud.

Section 6

- Protection of stronger state seafood safety and fraud laws.

Section 7

- Definitions: Seafood fraud means the mislabeling or misrepresentation of seafood in violation of the Act or other Federal laws and regulations.

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